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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
REGION 1

5 POST OFFICE SQUARE, SUITE 100  
BOSTON, MA 02109-3912

**CERTIFIED MAIL - RETURN RECEIPT REQUESTED**

**JUL 01 2014**

One India Street, LLC  
c/o McAllister Towing and Transportation Company, Inc.  
Attn: B. Buckley McAllister  
17 Battery Place, Suite 1200  
New York, New York 10004

Re: PCB Cleanup and Disposal Approval under 40 CFR §§ 761.61(a) and (c)  
1 India Street  
Providence, Rhode Island

Dear Mr. McAllister:

The U.S. Environmental Protection Agency ("EPA") is in receipt of a proposed plan<sup>1</sup> ("Notification"), to address PCB contamination at the 1 India Street property ("the Site") in Providence, Rhode Island in accordance with the Toxic Substances Control Act ("TSCA"), 15 USC § 2601 *et seq.* The Site contains PCB-contaminated soils that exceed the allowable PCB levels for unrestricted use under the federal PCB regulations at 40 CFR § 761.61(a). One India Street, LLC ("OIS, LLC") submitted the Notification pursuant to the PCB self-implementing cleanup and disposal option at 40 CFR § 761.61(a)(3).

In accordance with the Notification, OIS, LLC proposes to:

- Remove PCB-contaminated soils to achieve a *high occupancy area* PCB cleanup standard of less than or equal to (" $\leq$ ") 10 parts per million ("ppm") and conduct verification sampling in accordance with Subpart O to confirm that the PCB concentrations for on-site and off-site disposal have been met;
- Install a TSCA compliant cap over PCB-contaminated soil with greater than (" $>$ ") 1 ppm but  $\leq$  10 ppm in accordance with 40 CFR § 761.61(a)(7); and,

<sup>1</sup> Information was submitted on behalf of One India Street, LLC by ESS Group, Inc. to meet the notification requirements under 40 CFR §§ 761.61(a) and (c). Information was submitted dated September 13, 2013 (Self-Implementing On-Site Cleanup and Disposal Plan (SIP)); November 20, 2013 (email Site owner information and revised Table 3); January 21, 2014 (revised SIP) January 22, 2014 (email response to EPA comments); February 25, 2014 (revised February 21, 2014 SIP); February 25, 2014 (email information on revisions to SIP); May 15, 2014 (email revised Figure 5); and June 19, 2014 (email revised Figures 5 and 6). These submittals, together, will be referred to as the "Notification."

- Record a deed restriction on the Site in the form of an Environmental Land Use Restriction ("ELUR") in accordance with 40 CFR § 761.61(a)(8) to document the PCB concentrations remaining on the Site and to document the existence of and requirement to maintain the TSCA compliant cap.

With exception of the characterization sampling frequency and sample extraction method requirements, the Notification meets the requirements under 40 CFR § 761.61(a). For a majority of the samples collected in 2009, EPA Method 3546 was used for sample extraction. While this method is not specifically authorized under 40 CFR § 761.61(a), the majority of these samples are located in areas targeted for soil excavation. For the remaining sample locations where the data indicates potential PCB concentrations greater than (">") 1 ppm or > 10 ppm, sampling will be conducting during the remedial work to confirm the PCB concentrations using approved methods.

Given the Site history, the characterization sampling that has been conducted, and the proposed excavation and verification sampling, the data will be sufficient to support the proposed PCB cleanup and disposal activities. EPA has determined that use of the alternative sampling and sample extraction method will not result in an unreasonable risk of injury to public health or the environment. EPA applies this reasonable risk standard in accordance with the PCB regulations at 40 CFR § 761.61(c), and the Toxic Substances Control Act at 15 USC § 2605(e).

OIS, LLC may proceed with the proposed work in accordance with 40 CFR §§ 761.61(a) and (c), the Notification, and this Approval letter, subject to the conditions of Attachment 1.

Nothing in this Approval is intended or is to be construed to prejudice any right or remedy concerning PCBs or other federally-regulated contaminants at the Site otherwise available to the EPA under Section 6 of TSCA, 15 U.S.C. 2605, 40 CFR Part 761, or other provisions of federal law. This Approval also does not release any party from any applicable requirements of state or local law, including RIDEM's Remediation Regulations at DEM-DSR-01-93.

Questions and correspondence regarding this Approval should be directed to:

Kimberly N. Tisa, PCB Coordinator  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100  
Mailcode: OSRR07-2  
Boston, Massachusetts 02109-3912  
Telephone: (617) 918-1527  
Facsimile: (617) 918-0527  
Email: tisa.kimberly@epa.gov

Please also note that among other requirements necessary to complete this project, EPA will not consider this project complete until it has received documentation, as outlined in Attachment 1, evidencing completion of the work, including the construction of the final clean TSCA-compliant cap and the recording of a deed restriction per the requirements of 40 CFR § 761.61(a)(8). Please be aware that upon its receipt and review of the required submittals, EPA may request any additional information necessary to establish that the work has been fully completed in accordance with the in accordance with 40 CFR Part 761, the Notification, and this Approval.

Sincerely,

A handwritten signature in cursive script, appearing to read "James T. Owens, III".

James T. Owens, III  
Director, Office of Site Remediation & Restoration

Attachment 1: PCB Cleanup and Disposal Approval Conditions

cc: Kevin Purdy, ESS Group  
William Chapman, ESS Group  
Ross Singer, RIDEM  
File



## ATTACHMENT 1

**PCB CLEANUP AND DISPOSAL APPROVAL CONDITIONS  
ONE INDIA STREET, LLC SITE ("the Site")  
1 INDIA STREET  
PROVIDENCE, RHODE ISLAND**

### GENERAL CONDITIONS

1. As *PCB remediation waste*, as defined at 40 CFR § 761.3 is being addressed under the Notification<sup>2</sup>, this Approval is being granted under the authority of Section 6(e) of the Toxic Substances Control Act ("TSCA"), 15 U.S.C. § 2605(e), and the PCB regulations at 40 CFR Part 761. With respect to *PCB remediation waste*, this Approval applies solely to *PCB remediation waste* located at the Site and identified in the Notification.
  - a. In the event that One India Street, LLC ("OIS, LLC") identifies newly discovered PCB-contaminated wastes subject to cleanup and disposal under the PCB regulations, OIS, LLC will be required to promptly notify EPA and to clean up the newly discovered PCB-contaminated wastes in accordance with 40 CFR Part 761.
  - b. In the event that newly discovered PCBs, as immediately described above, occurs, OIS, LLC may propose to submit a separate plan to address the newly discovered PCB contamination or may propose to modify the Notification to incorporate cleanup of the newly discovered PCBs in accordance with Condition 15.
2. In the event that differences exist between the Notification and the conditions of this Approval, the conditions of this Approval shall govern.
3. The terms and abbreviations used herein in this Approval shall have the meanings as defined in 40 CFR § 761.3 unless otherwise defined within this Approval.
4. OIS, LLC must comply with all applicable federal, state and local regulations in the storage, handling, and disposal of all PCB wastes, including PCBs, PCB Items and decontamination wastes generated under this Approval. In the event of a new spill of PCBs or any other hazardous substance during response actions, OIS, LLC shall immediately notify EPA for direction on sampling and cleanup requirements.

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<sup>2</sup> Information was submitted on behalf of One India Street, LLC by ESS Group, Inc. to meet the notification requirements under 40 CFR §§ 761.61(a) and (c). Information was submitted dated September 13, 2013 (Self-Implementing On-Site Cleanup and Disposal Plan (SIP)); November 20, 2013 (email Site owner information and revised Table 3); January 21, 2014 (revised SIP) January 22, 2014 (email response to EPA comments); February 25, 2014 (revised February 21, 2014 SIP); February 25, 2014 (email information on revisions to SIP); May 15, 2014 (email revised Figure 5); and June 19, 2014 (email revised Figures 5 and 6). These submittals, together, will be referred to as the "Notification."

5. OIS, LLC is responsible for the actions of all officers, employees, agents, contractors, subcontractors, and others who are involved in activities conducted under this Approval. If at any time the OIS, LLC has or receives information indicating that OIS, LLC or any other person has failed, or may have failed, to comply with any provision of this Approval, they must report the information to EPA in writing within 24 hours of having or receiving the information.
6. This Approval does not constitute a determination by EPA that the transporters or disposal facilities selected by OIS, LLC are authorized to conduct the activities set forth in the Notification. OIS, LLC is responsible for ensuring that its selected transporters and disposal facilities are authorized to conduct these activities in accordance with all applicable federal, state and local statutes and regulations.
7. This Approval does not: (1) waive or compromise EPA's enforcement and regulatory authority; (2) release any party from compliance with any applicable requirements of federal, state or local law; or (3) release any party from liability for, or otherwise resolve any violations of federal, state or local law.
8. Failure to comply with the approval conditions specified herein shall constitute a violation of the requirement in 40 CFR § 761.50(a) to store or dispose of PCB waste in accordance with 40 CFR Part 761 Subpart D.

#### **NOTIFICATION AND CERTIFICATION CONDITIONS**

9. This Approval may be revoked if the EPA does not receive written notification from OIS, LLC of its acceptance of the conditions of this Approval within ten business days of receipt.
10. OIS, LLC shall notify EPA in writing of the scheduled date of commencement of on-site activities at least three business days prior to conducting any work under this Approval.
11. Prior to initiating on-site work under this Approval, OIS, LLC shall submit the following:
  - a. a certification signed by the selected analytical laboratory, stating that the laboratory has read, understands and will abide by the analytical and quality assurance requirements specified in the Notification and this Approval;
  - b. a certification signed by the selected remediation contractor, stating that the contractor has read and understands the Notification, and agrees to abide by the conditions specified in this Approval; and,
  - c. a contractor work plan, prepared and submitted by the selected contractor(s) describing the air monitoring that will be employed during remedial activities. This work plan should also include information on how and where wastes will be stored and disposed of, and on how field equipment will be decontaminated.



**CLEANUP AND DISPOSAL CONDITIONS**

12. The PCB cleanup level for bulk *PCB remediation waste* at the Site shall be in accordance with the *high occupancy area* cleanup requirements at 40 CFR § 761.61(a)(4).
  - a. Bulk *PCB remediation waste* (i.e., PCB-contaminated soil) with greater than or equal to (“≥”) 50 parts per million (“ppm”) shall be removed and disposed of in accordance with 40 CFR § 761.61(a)(5)(i)(B)(2)(iii).
  - b. Bulk *PCB remediation waste* with greater than (“>”) 10 ppm but less than (“<”) 50 ppm shall be removed and disposed of in accordance with 40 CFR 761.61(a)(5)(i)(B)(2)(ii) or 40 CFR § 761.61(a)(5)(i)(B)(2)(iii).
  - c. Bulk *PCB remediation waste* samples shall be collected on a bulk basis (i.e., mg/Kg) and reported on a dry-weight basis. Chemical extraction for PCBs shall be conducted using Methods 3500B/3540C of SW-846 for solid matrices and using Method 3500B/3510C of SW-846 for aqueous matrices; and, chemical analysis for PCBs shall be conducted using Method 8082 of SW-846, unless another extraction and/or analytical method(s) is validated according to 40 CFR Part 761 Subpart Q.
  - d. Verification sampling shall be conducted in accordance with Subpart O and as described in the Notification to confirm that the less than or equal to (“≤”) 10 ppm PCB cleanup standard has been met.
13. All PCB waste (regardless of concentration) generated as a result of the activities described in the Notification shall be marked in accordance with 40 CFR §§ 761.40 and 761.45; stored in a manner prescribed in 40 CFR § 761.65; and, disposed of in accordance with 40 CFR § 761.61(a)(5), unless otherwise specified as follows:
  - a. Decontamination wastes and residues shall be disposed of in accordance with 40 CFR § 761.79(g)(6).
  - b. Moveable equipment, tools, and sampling equipment shall be decontaminated in accordance with either 40 CFR 40 CFR § 761.79(c)(2), 40 CFR § 761.79(b)(3)(i)(A), or 40 CFR § 761.79(b)(3)(ii)(A).
  - c. PCB-contaminated water generated during decontamination or dewatering shall be decontaminated in accordance with 40 CFR § 761.79(b)(1) or disposed of under 40 CFR § 761.70.

### **INSPECTION, MODIFICATION AND REVOCATION CONDITIONS**

14. OIS, LLC shall allow any authorized representative of the Administrator of the EPA to inspect the Site and to inspect records and take samples as may be necessary to determine compliance with the PCB regulations and this approval. Any refusal by the OIS, LLC to allow such an inspection (as authorized by Section 11 of TSCA) shall be grounds for revocation of the Approval.
15. Any proposed modification(s) in the plan, specifications, or information in the Notification must be submitted to EPA no less than 14 calendar days prior to the proposed implementation of the change. Such proposed modifications will be subject to the procedures of 40 CFR § 761.61(a)(3)(ii).
16. Any departure from the conditions of the Approval without prior, written authorization from the EPA may result in the revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
17. Any misrepresentation or omission of any material fact in the Notification or in any records or reports may result in the EPA's revocation, suspension and/or modification of the Approval, in addition to any other legal or equitable relief or remedy the EPA may choose to pursue.
18. Approval for these activities may be revoked, modified or otherwise altered if EPA finds: (1) a violation of the conditions of the Approval, the Notification, or 40 CFR Part 761 or other applicable rules and regulations; (2) that these activities present an unreasonable risk to public health or the environment; or, (3) that there is migration of PCBs from the Site.

### **RECORDKEEPING AND REPORTING CONDITIONS**

19. OIS, LLC shall prepare and maintain all records and documents required by 40 CFR Part 761, including but not limited to the records required under Subparts J and K. A written record of the cleanup activities and the analytical sampling shall be established and maintained by the OIS, LLC in one centralized location, until such time as EPA approves in writing a request for an alternative disposition of such records. All records shall be made available for inspection by authorized representatives of EPA.
20. Within 60 days of completion of the cleanup activities described in the Notification and authorized by this Approval, and as required under 40 CFR § 761.61(a)(8)(i)(B), OIS, LLC shall record in the appropriate land evidence records a notation on the deed as required under 40 CFR § 761.61(a)(8)(i)(A), and shall provide a signed certification that it has recorded the deed restriction pursuant to 40 CFR § 761.61(a)(8)(i)(B) with a copy of the recorded deed restriction stamped with book/page numbers.



21. OIS, LLC shall submit a final completion report in both paper and electronic (CD-ROM) formats to the EPA within 60 days of completion of the activities authorized under this Approval. At a minimum, this final report shall include: a short narrative of the project activities with photo-documentation; characterization and verification sampling analytical results; copies of the accompanying analytical chains of custody; field and laboratory quality control/quality assurance checks; an estimate of the quantity of PCB waste and other wastes disposed of and the size of the remediated area(s); and copies of certificates of disposal or similar certifications issued by the disposer.
22. Required submittals shall be mailed to:  
  
Kimberly N. Tisa, PCB Coordinator  
United States Environmental Protection Agency  
5 Post Office Square, Suite 100 (OSRR07-2)  
Boston, Massachusetts 02109-3912  
Telephone: (617) 918-1527  
Facsimile: (617) 918-0527
23. No record, report or communication required under the Approval shall qualify as a self-audit or voluntary disclosure under EPA audit, self-disclosure or penalty policies.
24. Nothing in the Approval is intended or is to be construed to prejudice any right or remedy concerning PCBs or other federally-regulated contaminants at the Site otherwise available under Section 6 of TSCA, 15 U.S.C. § 2605, 40 CFR Part 761, or other provisions of federal law.

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END OF ATTACHMENT 1